

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

Plaintiff,

V.

LENOX HOLDINGS INC.

Defendant.

COMPLAINT TO RECOVER ERRONEOUS TAX REFUNDS

The United States of America, at the request of the Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury, and at the direction of the Attorney General of the United States brings this civil action to recover erroneous tax refunds issued to defendant Lenox Holdings, Inc. In support of this action, the United States alleges as follows:

JURISDICTION AND VENUE

1. Jurisdiction is conferred upon the district court pursuant to 26 U.S.C. § 7402 and 7405, and 28 U.S.C. §§ 1331, 1340, and 1345.
2. Venue for this action is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1396.

PARTIES

3. The plaintiff is the United States of America.

4. The defendant is Lenox Holdings, Inc. (hereinafter “Lenox”) with an address at 1414 Radcliffe Street, Bristol, PA 19007, which is within the jurisdiction of this court.

CLAIM FOR RELIEF

5. The United States incorporates by reference the allegations set forth in paragraphs 1 through 4 above.

6. On or about April 17, 2020, Defendant Lenox filed Forms 1139, Corporation Application for Tentative, for loss years March 31, 2018 and March 31, 2019. Lenox filed the Forms 1139 to claim carryback losses to periods ending March 31, 2014, March 31, 2015, and March 31, 2016.

7. As a result of the Forms 1139, on May 21, 2020, the Internal Revenue issued an erroneous refund to Defendant Lenox, in the amount of \$2,826,885 for the 2014 tax year.

8. As a result of the Forms 1139, on May 21, 2020, the Internal Revenue issued an erroneous refund to Defendant Lenox, in the amount of \$1,084,544 for the 2015 tax year.

9. As a result of the Forms 1139, on May 21, 2020, the Internal Revenue issued an erroneous refund to Defendant Lenox, in the amount of \$1,784,670 for the 2016 tax year.

10. The 2014 tax year refund was erroneous because the Forms 1139 submitted by Lenox, referred to in paragraph 6, were incomplete and thus not

processable. The Defendant failed to complete lines 14 and 15 of the forms. The missing information from lines 14 and 15 of Forms 1139 were necessary to determine whether Lenox was entitled to a refund and/or to determine the correct amount of a refund.

11. The 2015 tax year refund was erroneous because the Forms 1139 submitted by Lenox, referred to in paragraph 6, were incomplete and thus not processable. The Defendant failed to complete lines 14 and 15 of the form. The missing information from lines 14 and 15 of Forms 1139 were necessary to determine whether Lenox was entitled to a refund and/or to determine the correct amount of a refund.

12. The 2016 tax year refund was erroneous because the Forms 1139 submitted by Lenox, referred to in paragraph 6, were incomplete and thus not processable. The Defendant failed to complete lines 14 and 15 of the form. The missing information from lines 14 and 15 of Form 1139 were necessary to determine whether Lenox was entitled to a refund and/or to determine the correct amount of a refund.

13. The IRS made numerous attempts to obtain the missing information on the Forms 1139 from Defendant Lenox, but the Defendant failed to provide the requisite information.

14. By letter dated August 19, 2020, the IRS issued a 510-C letter to Lenox. The letter informed defendant Lenox it rejected the Forms 1139, referred to in paragraph 6, submitted by the Defendant due to the missing information. It also informed Lenox that since the Forms 1139 were rejected the refunds were erroneous and requested repayment of the erroneous refunds.

15. After getting no response to the August 19, 2020 letter, on or about January 20, 2021, the IRS sent Lenox another 510-C letter explaining that the refunds were erroneous and requesting repayment of the refunds.

16. As of May 19, 2022, the IRS has not received the erroneously refunded amounts from the defendant.

17. Under 26 U.S.C. § 7405, the United States is entitled to recover from Lenox all amounts erroneously refunded for the 2014, 2015, and 2016 tax years, plus statutory interest accruing from the dates the Internal Revenue Service made the erroneous refunds.

WHEREFORE, plaintiff United States of America hereby prays that this Court:

- A. Order, adjudge, and decree that Lenox is indebted to the United States of America in the amount of \$2,826,885 for the 2014 tax year refund, and that the Court enter judgment against Lenox and in favor of the United States for the amount, plus interest and any other statutory additions, from May 21, 2020, as allowed by law;
- B. Order, adjudge, and decree that Lenox is indebted to the United States of America in the amount of \$1,084,544 for the 2015 tax year refund, and that the Court enter judgment against Lenox and in favor of the United States for the amount, plus interest and any other statutory additions, from May 21, 2020, as allowed by law;
- C. Order, adjudge, and decree that Lenox is indebted to the United States of America in the amount of \$1,784,670 for the 2016 tax year refund, and that

the Court enter judgment against Lenox and in favor of the United States for the amount, plus interest and any other statutory additions, from May 21, 2020, as allowed by law;

D. Award to the United States of America its cost of prosecuting this action; and

E. Award such other and further relief as the Court deems just and equitable.

DATED: May 19, 2022

DAVID A. HUBBERT
Deputy Assistant Attorney General

/s/ Beatriz T. Saiz
BEATRIZ T. SAIZ
JOSHUA D. ZIMBERG
Trial Attorneys, Tax Division
U.S. Department of Justice
P.O. Box 227
Washington, D.C. 20044
(202) 307-6585 (v)
202-514-6866 (f)
Beatriz.T.Saiz@usdoj.gov
Joshua.D.Zimberg@usdoj.gov